

Application No. 09849621(Docket: DT.0102)
37 CFR 1.111 Amendment dated 06/21/2006
Reply to Office Action of 03/21/2006

REMARKS/ARGUMENTS

In the Office Action, the Examiner noted that claims 1-35 are pending in the application. The Examiner additionally stated that claims 1-35 are rejected. By this amendment, claims 1-18, 28-29, and 32-35 are cancelled and claim 29 is amended. Hence, claims 19-27 and 30-31 are pending in the application.

Applicant hereby requests further examination and reconsideration of the application, in view of the foregoing amendments.

In the Specification

Applicant has amended the specification to secure a substantial correspondence between the claims amended herein and the remainder of the specification. No new matter is presented.

In the Claims

Double Patenting Rejections

The Examiner issued rejections of claims 1-35 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 18-26 and 29-30 of co-pending application 09/849,448 (Docket: DT.0104), filed on 05/04/2001. The Examiner further remarked that the rejections are provisional since the conflicting claims have not been patented.

By this amendment, claims 1-18, 28-29, and 32-35 have been cancelled, thereby rendering the rejections moot.

Regarding claims 19-27 and 30-31, Applicant provides herewith a terminal disclaimer to obviate a double patenting rejection over a pending "reference" application that disclaims, except as provided therein, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 09/849,448 (Docket: DT.0104), filed on 05/04/2001, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be

Application No. 09849621(Docket: DT.0102)
37 CFR 1.111 Amendment dated 06/21/2006
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shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application.

Consequently, Applicant requests that the rejections of claims 19-27 and 30-31 be withdrawn.

Allowable Subject Matter

The Examiner wrote that claim 29 would be allowable if rewritten and terminally disclaimed to overcome the Double Patenting rejections, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

In response, Applicant has amended base claim 19 to include the allowable subject matter of claim 29 and intervening claim 28. Claims 28-29 have been cancelled. Applicant appreciates the Examiner's consideration of the claims and indication of allowable subject matter.

Rejections Under 35 U.S.C. §102(b)

The Examiner rejected claims 1-7, 11-18, 32, and 33 under 35 U.S.C. 102(b) as being anticipated by Cunningham et al. (U.S. Patent No. 6,029,139).

By this amendment, the above noted claims have been cancelled, thereby rendering the rejections moot.

Rejections Under 35 U.S.C. §103(a)

The Examiner rejected claims 8-10, 19-28, 30, 31, and 34-35 under 35 U.S.C. 103(a) as being unpatentable over Cunningham et al. (U.S. Patent No. 6,029,139), as applied to claims 1-7, 11-18, and 32-33.

By this amendment, the claims 8-10, 28, and 34-35 have been cancelled, thereby rendering the rejections moot.

Regarding claim 19, this claim is amended herein to include subject matter which has been deemed allowable. Accordingly, it is requested that the rejection of claim 19 be withdrawn.

Application No. 09849621(Docket: DT.0102)
37 CFR 1.111 Amendment dated 06/21/2006
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As per claims 20-27 and 30-31, these claims depend from claim 19, and add limitations beyond that subject matter which has been indicated as being allowable. Consequently, it is requested that the rejections of claims 20-27 and 30-31 be withdrawn as well.

Application No. 09849621(Docket: DT.0102)
37 CFR 1.111 Amendment dated 06/21/2006
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CONCLUSIONS

In view of the arguments advance above, Applicant respectfully submits that claims 19-27 and 30-31 are in condition for allowance. Reconsideration of the rejections is requested, and allowance of the claims is solicited.

Applicant earnestly requests that the Examiner contact the undersigned practitioner by telephone if the Examiner has any questions or suggestions concerning this amendment, the application, or allowance of any claims thereof.

I hereby certify under 37 CFR 1.8 that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on the date of signature shown below.

Respectfully submitted,
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/ Richard K. Huffman /

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